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HUMAN RIGHTS COMMITTEE

Forty-fifth session

SUMMARY RECORD OF THE 1151st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 14 July 1992, at 10 a.m.

Chairman: Mr. DIMITRIJEVIC

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of the Republic of Korea (CCPR/C/68/Add.1) (continued)

1. The CHAIRMAN invited the members of the Committee to continue their consideration of the initial report of the Republic of Korea and requested the last speakers to put their questions to the Korean delegation.

2. Mr. HERNDL welcomed the presence in the Committee of a high-level Korean delegation and thanked the Government of the Republic of Korea for the quality of its report, which had been submitted within the time limit and prepared in accordance with the Committee's guidelines. He warmly congratulated the Republic of Korea on its accession to the Covenant and the Optional Protocol, thus making it possible for persons within its jurisdiction, and not only citizens of the Republic, to apply to the Committee directly.

3. Referring to the Covenant's relationship with the domestic laws of the Republic of Korea, he noted that, under article 6 (1) of the Constitution, the Covenant had the same effect as domestic laws, and that meant that it ranked as an ordinary law. In that connection, he was not sure whether it might not be better for it to rank as a constitutional law so that its precedence in the national legal system would be guaranteed. Laws enacted subsequently might, for example, be contrary to some of the provisions of the Covenant and, if the Covenant had the same rank as ordinary laws, the lex posterior rule would apply, so that some provisions of the Covenant would have no effect. He would also like to know whether the Covenant was regarded as a directly applicable instrument because, if it was, it could be directly invoked in the Republic of Korea by the law enforcement authorities, namely, the administrative authorities and the courts.

4. With regard to remedies available to individuals, he asked what effect petitions filed by individuals would have, since the law provided only that the State had an obligation to consider such petitions, but did not say what specific action had to be taken on them. He also wished to know whether the remedies referred to in paragraph 14 of the report could be filed simultaneously, for example, whether an appeal against a decision handed down as a result of a petition could be lodged while the litigation procedure was under way in the same case. He would like some explanations about the role of the prosecutor, as referred to in paragraph 10 of the report, and about guarantees of his independence, as well as about the specific or general responsibilities entrusted to the human rights consultation centres established by the prosecutor.

5. As to the implementation of article 2 of the Covenant, the provisions of article 11, paragraph 1, of the Constitution might require some amendments, for discrimination appeared to be prohibited only on certain grounds, whereas the provisions of article 2 of the Covenant were much broader in scope. In

respect of the implementation of article 6 of the Covenant, the Committee had always clearly stated that the death penalty could be imposed only for the most odious and serious crimes. There was no doubt that the Government of the Republic of Korea had carefully thought out the reasons for deciding to maintain that penalty, but he would like some clarifications concerning the circumstances in which it was actually applied, for, under national laws, widely varying penalties, which could range from five years' imprisonment to death, could be applied for practically the same offences. The provisions of article 12 of the National Security Law stating that any person who had made false accusations was liable to the penalty provided for in the corresponding article, also called for some explanations: what was the corresponding article?

6. With regard to the implementation of article 9 of the Covenant, he would like to have some clarifications about the logic of the reasoning reproduced in paragraph 153 of the report because, in his view, the right of the accused to a speedy trial, on the one hand, and, on the other, the fact that a confession made under duress as a result of unduly prolonged detention was not admitted as evidence of guilt were two entirely separate ideas. As to the right of convicts to communicate, as dealt with, for example, in paragraph 168 of the report, which stated that an inmate was permitted to see other persons "when deemed necessary" and "except in limited cases where the meeting is deemed harmful for the rehabilitation of the inmate", he requested information on the Chang Ui-gyun case, which had been recently brought to the Committee's attention. Mr. Chang had apparently been prohibited from receiving visits in Taejeon prison because he was regarded as an "ideological criminal". He asked what the Korean authorities meant by "ideological criminal" and how such status could influence the measures taken for the prisoner's rehabilitation in society.

7. Referring to the implementation of article 15 of the Covenant and, in particular, to the retroactive effect of a decision of unconstitutionality, he requested some explanations on why reference was made to the retroactive effect of a decision of unconstitutionality, since it was clearly stated that any law which was declared unconstitutional would lose its effect "from the decision date". He also noted that very few details were given on the implementation of article 27 of the Covenant and that it was indicated only in paragraph 312 of the report that no minorities existed in the Republic of Korea. He would like to know whether that was really true.

8. Mrs. HIGGINS welcomed the Korean delegation and thanked the Government of the Republic of Korea for having submitted a carefully ordered and detailed report that had been prepared in accordance with the Committee's guidelines.

9. She asked how the Korean authorities planned to ensure that the population was informed of the implications of the commitments the Government had undertaken as a result of its accession to the Covenant and the Optional Protocol, how the population would be informed of the dialogue that had started with the Committee - particularly the final observations which would be formulated following the consideration of the periodic reports of the State party - and how the Government would give effect to the decisions taken under

the Optional Protocol concerning the authors of communications within its jurisdiction. Like the other members of the Committee, she hoped that the last reservations formulated by the Government of the Republic of Korea would rapidly be withdrawn.

10. With regard to the implementation of article 6 of the Covenant, she welcomed the plans to amend criminal law in order to abolish the death penalty. She would like to know what instructions were given to members of the police in connection with the use of force during public demonstrations. Referring to the implementation of article 7 and to paragraph 136 of the report, she asked whether studying the Constitution was really enough to make law enforcement officers refrain from the practice of torture and whether it might not also be a good idea for instruction to be provided on the international undertakings of the Republic of Korea with regard to the prohibition of torture. She noted that paragraph 137 of the report indicated that 29 public officials had been prosecuted for inflicting torture, but there was no indication of what the outcome of those proceedings had been. She therefore asked how many officials had been found guilty and what penalties had been imposed on them. She would also like to know who conducted interrogations and by virtue of which powers, whether the Government ensured that accused persons were not tried by their own superiors and whether there were any plans to set up an independent body to carry out inquiries into cases of that kind.

11. Referring to the implementation of article 9 of the Covenant, she requested information on the draft amendments to the Criminal Code, which had last been revised in 1975, and on the revision of the Code of Criminal Procedure. As to arrest before investigation, she noted that the Constitution Court had called for the amendment of some articles of the National Security Law because it had considered that detention lasted too long. In her view, however, a minimum reduction of the length of time that could be as long as 50 days was still not enough, bearing in mind the provisions of article 9, paragraph 3, of the Covenant, as well as the general comments and decisions of the Committee. She would also like to know whether there were any real obstacles to the reopening of the cases of persons who had been detained for many years and who claimed that they had been convicted in the past on the basis of confessions obtained under torture. Could such persons not benefit from the positive changes in the situation that had recently occurred in the Republic of Korea?

12. In the case of the implementation of article 14 of the Covenant, she asked whether the fact that there were special prosecutors and special public security legislation might not jeopardize the implementation of the principle of the presumption of innocence and what instructions were given to the courts in order to ensure that that principle was respected, particularly for persons accused under the National Security Law. She also asked whether it was true that some trials were held in prisons. If there were not enough lawyers, as was the case in many other countries in the world, the accused had to be defended by members of his family and by friends and such persons therefore had to be given every facility for access to prisons, but that appeared to give rise to some problems.

13. With regard to the implementation of article 19 of the Covenant, she believed that there were still some 40 political prisoners in the Republic of Korea. In that connection, she was not sure that the condition under which such prisoners could not be released unless they had given up their opinions and their beliefs was compatible with the provisions of the Covenant. She also wondered whether some provisions of the National Security Law did not specifically apply to persons whose opinions were different from those of the Government or to trade union members or political dissidents. Referring to the implementation of article 21 of the Covenant, she noted that the Act Concerning Assembly and Demonstration had recently been amended, in 1989. She nevertheless wished to know why an authorization had to be obtained in advance in order to organize meetings or demonstrations, in how many cases such an authorization was refused and why. As to the Social Surveillance Act, which had been promulgated in 1989 only and applied to persons released after having served their sentence, her view was that, as a rule, persons who had paid their debt to society should be free from any surveillance. She therefore asked why such an act had been promulgated and, in particular, whether its provisions were compatible with those of the Covenant.

14. Mr. PRADO VALLEJO welcomed the ratification of the Covenant and the Optional Protocol by the Republic of Korea, which was thus demonstrating its willingness to make progress towards full respect for human rights. He also welcomed with satisfaction the report by the State party, which had been prepared in accordance with the Committee's guidelines. Although the report contained full information on domestic laws, which did not seem to have many gaps, it provided little information on the problems and difficulties encountered in the practical application of the laws.

15. Like the other members of the Committee, he hoped that the Republic of Korea would withdraw the reservations it had made to some provisions of the Covenant and, in particular, to article 14, paragraph 5, a natural and essential provision which merely referred to the right to review by a higher court in the event of an error committed by an ordinary court.

16. In addition to the considerable development efforts it had been making, the Republic of Korea had also been working hard to ease tensions with neighbouring North Korea and to reduce antagonism and violence that could only lead to human rights violations. In that connection, he would like to know what stage had been reached in the negotiations being held to solve the serious problem of the separation of families and to bring about their reunion.

17. He was concerned about the fact that, under the National Security Law, it was possible to arrest anyone who had spoken with North Koreans and that particularly harsh measures were taken against persons imprisoned for that reason. In his view, those were practices that should no longer be used. He was also concerned about the fact that the National Security Law required political prisoners who had left prison after serving their sentences to report to the police every three months, that it made it possible to prohibit demonstrations, even peaceful ones, and that it allowed detention by the police for up to 50 days (para. 154), which was much longer than usual.

18. There had been many complaints of torture in respect of the Republic of Korea. It was pointed out, for example, that the authorities took a long time to institute an investigation in the case of a complaint of acts of torture. He would like to have some clarifications on the rules adopted to prevent such acts and on the complaints to which he had just referred because those were important elements for assessing the implementation of the Covenant. In the event of a complaint that detainees were being tortured, was it possible for independent bodies such as the Red Cross to enter prisons and visit prisoners to determine whether the complaint had any basis in fact?

19. Paragraph 89 of the report relating to article 4 of the Covenant stated that, under the Constitution, the freedom and rights of citizens could be restricted by law only when absolutely necessary for national security, the maintenance of law and order or "public welfare". He would like to know what was meant by "public welfare". He also wished to know the maximum period authorized for pre-trial detention and how the remedy of habeas corpus worked, since periods of detention could be very long.

20. He asked how many political prisoners there were in the Republic of Korea, since the figures quoted varied greatly. In that connection, attention had been drawn to the case of some prisoners of opinion who had been detained for 30 years. He wished to know whether any of them had been given reductions in sentence or other types of pardon provided for the benefit of some prisoners in many pieces of legislation. In the Republic of Korea, political prisoners could apparently not benefit from such measures if they were communist or regarded as such and if they did not give up their ideas, and that was not in conformity with recognized basic human rights standards.

21. When the Republic of Korea had ratified the Covenant, he would like to know whether the text had been published and disseminated so that all persons would be informed of their rights and the remedies and guarantees available to them, even under international instruments. Such dissemination was important for the implementation of the Covenant.

22. Mr. WENNERGREN, referring to article 107 of the Constitution and administrative remedies and, in particular, to paragraph 14 of the report, which stated that "The Supreme Court has the power to make a final review" of the constitutionality of decrees and administrative regulations, asked whether that meant that there were no administrative courts in the Republic of Korea and that the Supreme Court was, as it were, a supreme administrative court. He also wished to know the procedure for bringing a case before the Supreme Court.

23. With regard to article 6 and the death penalty, he had been suprised to learn from paragraph 112 of the report that the minimum age for the death penalty was now 18 years and that there was also a possibility of "the death sentence of a juvenile who is less than 18 years of age". He would like some clarifications on that point and asked whether the death penalty was carried out by hanging or otherwise. As to abortion, paragraph 110 of the report

stated that the voluntary interruption of pregnancy was authorized for "eugenic" reasons. He would like to know what that meant, whether a woman could be required to have an abortion for such reasons and whether a diagnosis of the foetus was carried out.

24. Referring to article 7 and torture, he requested statistics on the prosecution and punishment of officials who had committed acts of torture and on the penalties imposed on them. With regard to article 8 and forced labour during detention, paragraph 145 of the report stated that the Criminal Code provided for penal servitude "with a certain amount of labour", which should be defined. He would also like some statistics on solitary confinement, cases in which it was used and conditions under which prisoners were subjected to that regime.

25. Paragraph 246 of the report referred to the National Security Law under the heading of freedom of expression, but the commentary in the report suggested that the authors were actually dealing with freedom of conscience in the context of freedom of expression. Moreover, article 37 of the Constitution provided that fundamental rights could be subjected to restrictions when necessary for national security, the maintenance of law and order and public welfare, but, even in that case, the restrictions must not jeopardize any essential aspect of the right in question (para. 244 of the report). Freedom of conscience or opinion was, however, a fundamental right that must be respected. Under the heading "penitentiary system" (para. 165), reference was made to the purpose of the Penal Administration Act, which was to reform and rehabilitate convicted persons to return them to a normal life in society through moral training and the cultivation of a sound and stable personality. In his view that was a kind of indoctrination.

26. The CHAIRMAN said that the first phase of the consideration of the initial report of the Republic of Korea had now been completed, since the members of the Committee had asked their questions, which the delegation of the State party would answer later. The meeting would be suspended to enable the Committee to welcome the delegation of Belarus.

The meeting was suspended at 11.10 a.m. and resumed at 11.30 a.m.

Third periodic report of Belarus (CCPR/C/52/Add.8)

27. At the invitation of the Chairman, Mr. Dashuk, Mr. Ogurtsov and Mr. Galka (Republic of Belarus) took places at the Committee table.

28. Mr. DASHUK (Republic of Belarus), Minister of Justice, introducing his country's third periodic report, said that, since the consideration of the second periodic report and the submission of the third periodic report to the Committee in July 1990, enormous changes had taken place in the political, social and economic life of Belarus. He would therefore give a brief description of the many reforms that had been under way for the past two years, drawing attention to the most important. As far as details and the implementation of the Covenant were concerned, his delegation would then try to give exhaustive replies to the questions the members of the Committee would ask.

29. Under the new law on the election of deputies to the Supreme Soviet and local soviets which had been adopted in 1989, a new Parliament had been elected, as had the Supreme Soviet and the local soviets composed of deputies of the people. Voters had been able to choose from among several candidates the one they considered most worthy of representing them, on the basis of the programme submitted to them. Some 40 parliamentary seats had gone to the opposition, namely, the Belarusian Popular Front, which had been formed during the period preceding the elections. The presence of a strong opposition had had repercussions on the work of the supreme legislative bodies and on the consideration of matters submitted to Parliament. The laws and decrees adopted genuinely reflected the will and interests of the citizens of the Republic.

30. On 27 July 1990, during its first session, the Supreme Soviet had adopted the Declaration of State Sovereignty, an extremely important document which had not had any equivalent in 70 years of Soviet power and which, for the first time, proclaimed the sovereignty of the Republic, the supreme and independent authority as a matter of right. The Declaration provided for the supremacy of the rule of law and the independence of the Republic of Belarus in relations with other countries and expressed the desire of the Republic to establish itself as a State subject to the rule of law.

31. According to article 1 of the Declaration on State Sovereignty, the Republic of Belarus was recognized as a sovereign State on the basis of the existence of the Belarusian nation and its inalienable right to self-determination; the Belarusian language was established as the State language; and the people took precedence in the choice of its destiny. The inalienable rights of the Republic of Belarus as a sovereign State were in conformity with the generally recognized rules of international law; the Republic defended the nation State and had an insignia, a banner and a national anthem. Any attempt to overthrow the Belarusian nation State by force, by the activities of political parties or collective organizations or by individual activity was punishable by law.

32. Article 2 of the Declaration stated that citizens of all nationalities were part of the Belarusian people and regarded as full nationals of the Republic. Their rights were exercised directly and through State bodies. Only the Supreme Soviet could take decisions on behalf of the entire people of the Republic. Article 3 provided that State sovereignty was exercised in the name of a higher interest, which was development in well-being, freedom and respect for the dignity and life of every citizen on the basis of respect for individual rights, in accordance with the Constitution of the Republic and the international obligations it had undertaken.

33. Under article 4 of the Declaration, the Republic of Belarus defended the honour, health, rights and interests of citizens and guaranteed them social protection. Citizens were protected by the Republic even beyond its borders and the Republic regulated matters of citizenship, particularly in respect of persons who wanted to leave the territory.

34. According to article 5 of the Declaration, the soil, subsoil and airspace were the exclusive heritage of the Belarusian people, which enjoyed an exclusive right of possession, use and allocation of its resources. The Republic had set up the National Bank, which was subordinate to the Supreme Soviet; it had established its own financial system and credit system, organized its tax and customs regime independently and was entitled to create its own monetary system. According to article 6, the territory of the Republic must be respected in its unity and integrity. It could not be changed or used without the agreement of the Republic and all boundary problems were settled by way of agreements concluded by the Republic with sovereign States in the form of treaties which had to be ratified by Parliament.

35. Article 7 of the Declaration provided that the Constitution and laws took precedence in the territory of the Republic. All citizens, as well as non-citizens, State bodies, enterprises, institutions and organizations established or operating in Belarusian territory had to abide by the laws in force in the Republic. The separation of the legislative, executive and judicial powers was an important principle on which the rule of law in the Republic of Belarus was based.

36. Under articles 8 and 9 of the Declaration, the Republic decided independently on the establishment in its territory of organizations for the protection of nature and natural resources and it guaranteed the people protection against ecological risks. Moral and cultural matters were settled independently, as were questions relating to information and education. The Republic guaranteed the use of the Belarusian language in all areas of social life, ensured respect for national traditions and protected national and historical treasures in its territory, which were the exclusive property of the Republic and citizens.

37. Article 10 of the Declaration of Sovereignty related to the right of the Republic to set up its own armed forces under the supervision of the Supreme Soviet. It governed all matters relating to the installation and deployment of armed forces throughout the territory, as well as conditions for military service. It provided, inter alia, that no foreign armed force, military base or weapon could be installed in the territory without the agreement of the Supreme Soviet. The Republic had declared its intention to proclaim the territory a nuclear-free-weapon zone and, eventually, to become a neutral State.

38. According to article 11 of the Declaration, the Republic of Belarus had the sovereign right to set up, of its own accord, a union with other States and to separate from that union.

39. The provisions of the Declaration were being implemented by the Supreme Soviet of the Republic and as a result of the adoption of a new constitution and other laws. Thus, a law of 25 August 1991 had given the Declaration the rank of a constitutional law. The Supreme Soviet, meeting on 25 August 1991 in special session, had undertaken to amend and supplement

the Constitution in force. For example, it had amended article 72, which now provided that the Constitution of the Republic took precedence over all other laws and that the legislation of the former Soviet Union continued to be in force as long as it was not incompatible with the national Constitution. It had also amended article 73 guaranteeing the indivisibility of the territory, which could not be changed or used in any way without the agreement of the Republic. In that connection, all boundary problems were settled by agreement between the Republic and the States concerned.

40. A Supreme Soviet decree dated 25 August 1991 also guaranteed the economic and political independence of the Republic. All enterprises, organizations and institutions established in the territory of the Republic were its property, except for those whose management had been transferred to the competent bodies of the former Soviet Union, in accordance with the law on the transfer of authority which had entered into force on 1 January 1992.

41. In 1991, Parliament had adopted a nationality act which determined the conditions for the acquisition, retention and loss of citizenship of the Republic. It had also adopted a law on the crest and flag of the Republic in 1991 and had organized a competition for the composition of the national anthem.

42. A new customs law had been enacted in April 1992 and a text governing banking activity, bankruptcy and the protection of tax payers' interests had been adopted on 14 December 1991.

43. Popular voting by referendum had been regulated in detail in a legislative text adopted on 13 June 1991 and, at its 1992 winter session, Parliament had drafted a set of texts on military service. On 20 September 1991, the Supreme Soviet had issued a decree on relations between local bodies and the military authorities, as well as between those authorities and the State Security Committees of the former Soviet Union.

44. A law on self-management and the local economy establishing the basic principles and general orientation of the economy had been adopted on 20 February 1991 and had already been amended several times because its implementation had revealed some negative aspects. On 27 February 1992, Parliament had adopted a very important law establishing that the people held power and was the only source of the authority of the State, such sovereignty being exercised directly or through the intermediary of bodies set up to represent it. The law stipulated that the most important task of State bodies was to provide all the services the people needed and to guarantee that its rights, freedoms and legitimate interests were safeguarded. It prohibited any interference in the activities of State associations and bodies and vice-versa, except as otherwise expressly provided, prohibited the State from financing political parties and other political associations and guaranteed every citizen access in full quality to public service, as well as the right to join social associations.

45. The requirements for the publication and entry into force of all legislative texts of the Republic adopted by the Supreme Soviet were also provided for in a law which made their publication compulsory within 10 days of their adoption. International treaties concluded by the Republic also had to be published in the newspapers in Belarusian and in Russian so that each citizen might be informed of them.

46. One of the most important laws adopted since the submission of the third periodic report was the law putting an end to the monopoly of the Communist Party and establishing a multi-party system. The transition to a market economy had required other changes in the Constitution and a number of new laws had been drafted and adopted to govern matters such as land ownership, leases, activities of enterprises, foreign investments, bankruptcy, employment, culture, the possibility of concluding international treaties, education, the legal regime governing the territory contaminated as a result of the Chernobyl disaster and the protection of veterans, disabled persons, young persons and the family.

47. By decision of Parliament, the draft Constitution of the Republic of Belarus had been published in the media and the result had been tens of thousands of replies by citizens expressing their wishes. All the competent experts and State bodies had also studied the draft, on which a constitutional commission had been working for two years. The details of the text were not known, but, having taken part in its preparation, he could assure the Committee that one of its basic features was that it took account of all the international obligations assumed by the Republic of Belarus and that the protection of human rights occupied a very important place. A mechanism had been set up to guarantee the protection of human rights and there were plans to organize voting to elect deputies according to a multi-party system. The Republic would thus have a Parliament, a constitutional court and a court of appeal. The separation of the three powers would be fully guaranteed. In April 1992, Parliament had undertaken a legal reform and, although there was still a great deal to be done, many new texts already existed, such as the Criminal Code, the Civil Code, the Code of Criminal Procedure, the Code of Civil Procedure, a law containing the judiciary regulations, the Labour Code, the Family Code and the Administrative Code.

48. On 14 January 1992, the Supreme Soviet had ratified the Optional Protocol to the International Covenant on Civil and Political Rights and had made the declaration provided for in article 41 of the Covenant. He also drew attention to the ratification of ILO Convention No. 160 (on labour statistics), the Convention on the Rights of the Child and the Convention on Psychotropic Substances. As a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Byelorussian Soviet Socialist Republic had submitted a report to the Committee against Torture in 1989.

49. His delegation was at the disposal of the Committee for any clarifications and explanations it might like to have.

50. The CHAIRMAN invited the delegation of Belarus to reply to the questions contained in section I of the list of issues (M/CCPR/92/32), which read:

"I. Constitutional and legal framework within which the Covenant is implemented; right to self-determination; non-discrimination and equality of the sexes; and rights of persons belonging to minorities (articles 1, 2, 3 and 27)

(a) Please clarify the legal and practical consequences of the dissolution of the Soviet Union and the establishment of the Commonwealth of Independent States on the implementation of the rights set forth in the Covenant and their enjoyment by individuals in Belarus. What is the actual status of legislation in the field of human rights in Belarus?

(b) What has been the impact on the actual implementation of the Covenant of the adoption of the Act on the Status of Judges of 4 August 1989, the Contempt of Court Act of 2 November 1989, and the Foundations of Legislation on the Judicial System of 17 November 1989 (paras. 50 to 58 of the report)?

(c) What is the position of Belarus regarding the first Optional Protocol to the Covenant?

(d) Please elaborate on the new systems of power being established both nationally and locally, in provinces, cities and rural areas (para. 84 of the report).

(e) What measures have been taken or contemplated to ensure consistency between any new constitutional provisions or other legal instruments and the Covenant?

(f) Please comment on what improvements, if any, have occurred in the situation of minorities since the consideration of the second periodic report. Please provide statistical data on minorities described in the Covenant.

(g) Please elaborate on the activities undertaken to enhance the role and status of women during the reporting period, particularly by the women's councils mentioned in paragraph 29 of the report."

51. Mr. DASHUK (Republic of Belarus) said that the Declaration of Sovereignty confirmed the exercise of the right to self-determination, which, until the adoption of the Declaration, had been only a principle that had had no effect. The Declaration guaranteed the rights of citizens and minorities and strengthened them even more. The dissolution of the USSR had, of course, given rise to economic disruptions, but, as far as the rights of citizens were concerned, there had been an enormous step forward, although that did not necessarily mean that there had been serious violations of human rights in Belarus before 1990. After the ratification of the Covenant, many texts had

been adopted to guarantee the exercise of human rights. At present, those guarantees were being expanded and increased. It should be pointed out that nearly all the laws enacted since 1990 included a provision stating that, if a particular question was not covered by a law, the international rule applied.

52. With regard to question (b), he pointed out that, since the third periodic report had been submitted to the Committee, the Republic of Belarus had equipped itself with new laws, particularly on conditions of admission to the profession of judge. Since 3 July 1990, when a law had been adopted along those lines, judges and assessors of the Republic were qualified and had to be sworn in. As part of the reform of the judicial system, there were plans to establish a court of appeal and eliminate the institution of people's assessors. It was also being proposed that some minor criminal offences should come within the jurisdiction of a single judge, whereas more complex cases would be tried by three judges. Various measures had been taken to guarantee the independence of judges and strengthen their authority. For example, the Criminal Code penalized any interference in the powers of judges and established criminal responsibility in the event of threats against judges, contempt of court, refusal to testify, withholding evidence, obstruction of the operation of the court and refusal to enforce a court decision. According to another recommendation, judges had to be appointed without delay. Judges were elected at the regional level for 10 years, and that was an improvement compared to the past situation, although it was not a complete guarantee. In any event, the Government and Parliament were fully aware of the importance of the independence of the judiciary and would do everything possible to strengthen it even more.

53. With regard to the question asked in paragraph (c), he said that the Republic of Belarus had ratified the first Optional Protocol to the Covenant on 14 January 1992.

54. As to paragraph (d), the question of regional and local autonomy was important and complex. In February 1991, Parliament had adopted various texts on that question and there were many legislative provisions relating to it. In general, an end had been put to the representation of what had been known as the "nomenklatura" of the Communist Party within the organs of power. At present, those bodies were composed of persons who had a spirit of initiative and cared about respect for democracy. The legislation in force prohibited being both a deputy and a member of a party. At all levels of power, efforts were being made to improve the economic situation of citizens and guarantee respect for their rights. The Soviets now were very different from those of the past. Deputies no longer systematically adopted the texts submitted to them, as they had done before. In appointing judges, they carefully considered each file, taking account primarily of the qualifications of candidates, and they made very specific recommendations in every case.

55. There were differences and oppositions within each Soviet and they were to be welcomed.

56. Although he had partially answered the question asked in paragraph (e), he added that, on the whole, the provisions of the Covenant had been respected in his country since the submission of the second periodic report. However, the legislation in force still had some important gaps. For example, in the event of unlawful arrest or detention, it did not provide for adequate remedies and, in that sense, its provisions were not up to international standards. Moreover, the rights and interests of citizens were not always sufficiently protected by the law. The new legislation being prepared would fill all those gaps and be designed particularly to protect rights and freedoms. He assured the Committee that each provision of the Covenant was being carefully studied as part of the legislative reform and that his country's next periodic report would provide further information on all those questions. A set of draft laws would be submitted to Parliament at its autumn session and their adoption should make it possible to bring national legislation more fully into line with the provisions of the Covenant. Other problems included the under-representation of lawyers in court, the fact that the Supreme Court sometimes heard cases which were within the jurisdiction of a court of first instance and the fact that the Ministry of the Interior exercised functions that were not within its terms of reference, such as issuing passports and permits or registering citizens. The role of the police would also have to be reappraised, for its task was basically to prevent delinquency and guarantee the security of citizens. It was also necessary to redefine the functions of the public prosecutor, who had to assist judges in their work, not impose his views on them. There could be no independence of the judiciary if the public prosecutor could be made responsible for investigations. There were also not enough lawyers. They numbered about 1,000, but they did not meet needs, far from it. Moreover, the profession of lawyer should be exercised more and more in the private sector. The reform that was under way was moving in that direction. He also noted that the State Security Committee (KGB) was now undergoing a complete restructuring, which had been badly needed.

57. Referring to paragraph (f), he said that 77 nationalities now lived together in Belarus. The four main minorities were Ukrainians, Russians, Poles and Jews. As a general rule, the rights of national minorities were fully respected in the Republic, which had a long tradition of political stability. The Belarusian people had suffered greatly during the Second World War, one out of four - some said one out of three - having been killed, and it knew the price of friendship among peoples. The authorities therefore set great store by ensuring harmonious coexistence with the different national minorities. A draft law on the question of minorities would, moreover, probably be adopted on second reading at the autumn session of Parliament. He also noted that the members of national minorities in Belarus enjoyed the same rights as all other citizens of the Republic. In addition, Belarusians who left the new Baltic Republics because of the harsh requirements they had to meet, particularly as far as knowing the language of the country was concerned, could freely return to Belarus, where they were welcomed. He had no knowledge of any case of the denial of Belarusian citizenship. Many Ukrainian, Polish and Jewish social and trade union organizations, inter alia,

had been officially registered by the authorities of the new Republic. The aim of those organizations was to defend the rights and interests of the minorities they represented. Under the legislation in force, moreover, national minorities could request Parliament to include the consideration of important questions of concern to them in its agenda.

58. Replying to the question contained in paragraph (g), he said that the legislative provisions on the status of women, pregnancy, children and adolescents had been amended considerably. The law of 28 June 1992 relating to the family, pregnancy and women's work contained a number of provisions which usefully supplemented the existing legislation. Pregnant women were thus better protected and their working conditions had been made more flexible, without any reduction in wages. For example, women were entitled to one year of maternity leave. Mothers below age 18 were entitled to 18 months' paid leave to raise a child and, throughout that period, received allowances from the State for themselves and for their children. After that, a woman could take unpaid leave to raise her child until it had reached the age of three. She then received allowances for the child only. It was also prohibited to dismiss a pregnant woman or a woman whose children were below the age of three. If the enterprise where she had been working before her pregnancy was closed down, the management of the enterprise or the State then had to find her another job.

59. Under the Family Code, women and children enjoyed legal protection by the State. As a general rule, everything was done so that women could combine bringing up children and work, especially by giving them advantages in the workplace.

60. As an even more general rule, women took an active part in the political life of the country. Many of them held posts as ministers, deputies, physicians, etc. and the authorities paid a great deal of attention to the economic problems they encountered. The status of women had never given rise to any real problems in Belarus, where women's committees played an important role and women were generally particularly dynamic.

61. The CHAIRMAN thanked the Belarusian delegation for its detailed replies to the questions contained in section I of the list. He invited the members of the Committee to continue their consideration of the third periodic report of Belarus (CCPR/C/52/Add.8) at a subsequent meeting.

The meeting was called to order at 1.05 p.m.